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Attorney for Defendant
Erin Capital Management, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES SNOW, an individual,)	
)	Case No. C08 01370 PVT
Plaintiff,)	
vs.)	
)	ERIN CAPITAL MANAGEMENT,
ERIN CAPITAL MANAGEMENT, LLC a))	LLC'S ANSWER TO COMPLAINT
limited liability company; and DOES 1))	
through 10 inclusive;)	
)	
Defendants.)	
)	
)	

Defendant ERIN CAPITAL MANAGEMENT, LLC ("Erin") submits this
Answer and Affirmative Defenses to Plaintiff's Complaint and states as follows:

I. INTRODUCTION

1. Erin admits Plaintiff's action is brought under the statutes set forth
in ¶ 1 of the Complaint, but denies any wrongdoing or liability under the law.

II. JURISDICTION AND VENUE

2. Erin admits the allegations set forth in ¶ 2 of the Complaint for
jurisdiction and venue purposes only.

III. PARTIES

3. Erin lacks sufficient information to answer the allegations contained in ¶ 3 of the Complaint, and based thereon denies the same.

4. Erin admits it is a limited liability company based in New York. Erin further admits it engages in the business of purchasing debt for collection, including the debt of California consumers. Except as specifically admitted, Erin denies the remaining allegations contained in ¶ 4 of the Complaint.

5. Erin admits that when it acts as a debt collector as defined by 15 U.S.C. § 1692a(6) and/or Cal. Civ. Code § 1788.2(c), its conduct may be governed by the applicable provisions of the FDCPA and/or Rosenthal Act. Erin further admits it engages in the business of purchasing debt for collection. Except as specifically admitted, Erin denies the remaining allegations contained in ¶ 5 of the Complaint.

6. Erin lacks sufficient information to answer the allegations contained in ¶ 6 of the Complaint, and based thereon denies the same.

7. Erin lacks sufficient information to answer the allegations contained in ¶ 7 of the Complaint, and based thereon denies the same.

8. Erin lacks sufficient information to answer the allegations contained in ¶ 8 of the Complaint, and based thereon denies the same.

9. Erin lacks sufficient information to answer the allegations contained in ¶ 9 of the Complaint, and based thereon denies the same.

1 10. Erin lacks sufficient information to answer the allegations contained
2 in ¶ 10 of the Complaint, and based thereon denies the same.

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4 IV. FACTUAL ALLEGATIONS

5 11. In response to ¶ 11 of the Complaint, Erin avers that the cited statute
6 speaks for itself and refers all matters of law to the Court.

7 12. Erin admits it purchased plaintiff's Citibank account. Except as
8 expressly admitted, Erin lacks sufficient information to answer the remaining
9 allegations contained in ¶ 12 of the Complaint and based thereon denies the same.

10 13. Erin lacks sufficient information to answer the allegations contained
11 in ¶ 13 of the Complaint, and based thereon denies the same.

12 14. Erin admits the allegations contained in ¶ 14 of the Complaint

13 15. Erin lacks sufficient information to answer the allegations contained
14 in ¶ 15 of the Complaint, and based thereon denies the same.

15 16. Erin lacks sufficient information to answer the allegations contained
16 in ¶ 16 of the Complaint, and based thereon denies the same.

17 17. Erin lacks sufficient information to answer the allegations contained
18 in ¶ 17 of the Complaint, and based thereon denies the same.

19 18. Erin lacks sufficient information to answer the allegations contained
20 in ¶ 18 of the Complaint, and based thereon denies the same.

21 19. In response to ¶ 19 of the Complaint, Erin avers the complaint filed
22 in San Mateo Superior Court Case No. CLJ461594 is the best evidence of its
23 content, and admits that the amount prayed for in the action was \$10,000 or less.
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1 20. In response to ¶ 20 of the Complaint, Erin avers the complaint filed
2 in San Mateo Superior Court Case No. CLJ461594 is the best evidence of its
3 content. Except as expressly admitted, Erin lacks sufficient information to answer
4 the remaining allegations contained in ¶ 20 of the Complaint, and based thereon
5 denies the same.
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7 21. In response to ¶ 21 of the Complaint, Erin avers the complaint filed
8 in San Mateo Superior Court Case No. CLJ461594 is the best evidence of its
9 content. Except as expressly admitted, Erin lacks sufficient information to answer
10 the remaining allegations contained in ¶ 21 of the Complaint, and based thereon
11 denies the same.
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13 22. In response to ¶ 22 of the Complaint, Erin avers the complaint filed
14 in San Mateo Superior Court Case No. CLJ461594 is the best evidence of its
15 content. Except as expressly admitted, Erin lacks sufficient information to answer
16 the remaining allegations contained in ¶ 22 of the Complaint, and based thereon
17 denies the same.
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19 23. In response to ¶ 23 of the Complaint, Erin admits a proof of service
20 was filed in San Mateo Superior Court Case No. CLJ461594 on October 1, 2007
21 and avers the proof of service is the best evidence of its content. Except as
22 expressly admitted, Erin lacks sufficient information to answer the remaining
23 allegations contained in ¶ 23 of the Complaint, and based thereon denies the same.
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25 24. Erin lacks sufficient information to answer the allegations contained
26 in ¶ 24 of the Complaint, and based thereon denies the same.
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1 25. Erin lacks sufficient information to answer the allegations contained
2 in ¶ 25 of the Complaint, and based thereon denies the same.

3 26. Erin admits the allegations contained in ¶ 26 of the Complaint.

4 27. Erin lacks sufficient information to answer the allegations contained
5 in ¶ 27 of the Complaint, and based thereon denies the same.

6 28. Erin admits the allegations contained in ¶ 28 of the Complaint.

7 29. Erin lacks sufficient information to answer the allegations contained
8 in ¶ 29 of the Complaint, and based thereon denies the same.

9 30. Erin lacks sufficient information to answer the allegations contained
10 in ¶ 30 of the Complaint, and based thereon denies the same.

11 31. Erin lacks sufficient information to answer the allegations contained
12 in ¶ 31 of the Complaint, and based thereon denies the same.

13 32. Erin admits a stipulation to set aside judgment and for dismissal was
14 filed in San Mateo Superior Court Case No. CLJ461594 on March 19, 2008.
15 Except as expressly admitted, Erin lacks sufficient information to answer the
16 remaining allegations contained in ¶ 32 of the Complaint, and based thereon
17 denies the same.

18 33. Erin lacks sufficient information to answer the allegations contained
19 in ¶ 33 of the Complaint, and based thereon denies the same.

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25 V. FIRST CLAIM FOR RELIEF

26 (Against all Defendants for Violation of the FDCPA)

1 such violation.

2 3. Pursuant to California Civil Code § 1788.30(e), to the extent that a
3 violation(s) is established, any such violation(s) was not intentional and resulted
4 notwithstanding maintenance of procedures reasonably adapted to avoid any such
5 violation.
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7 4. Plaintiff's right to recovery under the Rosenthal Act is barred by the
8 litigation privilege, Cal. Civ. Code § 47(b).
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10 Dated: 8/11/08

SESSIONS, FISHMAN, NATHAN & ISRAEL L.L.P.

11 /s/Debbie P. Kirkpatrick
12 Debbie P. Kirkpatrick,
13 Attorney for Defendant,
14 Erin Capital Management, LLC
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